

REMARKS

Claims 1-21 are in the application.

Claims 1-13, 15, 16, 18 and 20 are amended.

Applicants have provided new Figure 1 and have amended the specification to provide a Brief Description of the Drawing.

A revised Abstract is provided.

Applicants have reviewed the specification and made a number of technical corrections.

No new matter is believed entered by these amendments to the application.

Applicants have amended the claims to respond to the objections and rejections pursuant to 35 U.S.C. § 112, second paragraph made by the Examiner, by either conforming to the Examiner's kind suggestions or by canceling the offending claim language.

Claims 1-9, 11-12, 14-17 and 21 are rejected as being anticipated under 35 U.S.C. § 102 as being anticipated by Petty et al.

Petty et al. relates to a web-browser controlled VOIP/PSTN callback system, and thus is pertinent to the present application.

Claim 1 has been amended to distinguish Petty et al. by reciting that the digital data communications channel, i.e., the Internet connection, has a state independent of the request, which is determined by prior activity of a user, and in response to the received request, the server establishes the user voice communication in dependence on the state and a set of user preferences. It is not believed that the response of the server disclosed in Petty et al. is responsive to both a set of user preferences and the state.

Claim 6 provides that the communication with the user is established proactively based on an automated analysis, that is, the communication commences with a request from the server to the user, and not vice versa. This clearly distinguishes Petty et al. which apparently disclose only user-initiated communications, although one user may seek to contact another user through the system in a manual user-initiated fashion.

It is further noted that claims 4, 7, 9 and 16 establish that the economic interest of a party distinct from the user is material to the establishment of the voice communication, which is also not taught or suggested in Petty et al. Further, claim 5 provides that the user performs a generic action, which is then interpreted, while Petty et al. apparently provide the user with a set of specific options, see, e.g., Petty et al. Fig. 5.

Claim 11 is amended to provide that the server retrieves user-related data, and opens a VOIP communication with the user, in conjunction with the browser, with a live agent, the live agent being provided with access to the user related data and a status of a communication session between the browser and the server. Thus, claim 11 is clearly distinguished from Petty et al. in that Petty et al. does not contemplate data conferencing applications, i.e., supplying the live agent with user related data and web browser status.

Claim 17 is original, and is believed distinguished from Petty et al. in that Petty does not disclose a direct communication between the application program and the telephony hardware, nor an API call to an external program. For example, Petty et al. discloses a JAVA applet to transmit the call setup messages. It is well known that JAVA applets are, by design, insulated from direct hardware communications (except perhaps in JAVA native processors, not at issue here), and thus this disclosure does not meet the claim language. Likewise, the JAVA applet is provided at the client, and the telephone hardware at the server, so it is also indirect in this manner. Petty et al. also discloses a "voice button hyperlink", which executes in a web browser environment, and is therefore similarly distinguished. The CGI scripts at the web server execute in an interpreted manner, and are thus also indirect communications. The VOIP gateway 42 appears to be a server having telephony hardware, but without further disclosure defining the VOIP gateway, it is impossible to tell whether it might operate in accordance with the claimed invention; in any case, that is, the software architecture within the device. Thus, Petty et al. do not teach or suggest the claimed invention. Likewise, the limitations of claims 18-19 are neither taught nor suggested.

Claims 10, 13 and 18-20 are rejected as being obvious over Petty et al. in view of Smith III.

It is initially noted that the Examiner, in seeking to formulate a prima facie case, states that "Smith, III [is] from the same or similar fields of endeavor..." In fact, Smith, III is classified in U.S. Class 707/3, 707/1, 707/10, 707/100, 707/101, and 707/102, with field of search 707/1,2,3,4,5,7,100,10,101,102,203,103 R,200,201; 345/44,336,733,744,764,804,853,854 709/219,226,229 715/501.1,512. Petty et al. is classified in 370/356 and 370/410, with field of search 370/352,353,354,355,356,400,401,466,402,403,404,405,410 and 379/201,209,211,212,214,215,88.17,93.01,93.09 709/704,206,227,249. There is thus complete non-overlap. Further, Smith, III does not in any way relate to voice communications, and it is

well known that voice communications involve distinct technologies and considerations from normal world wide web traffic. These differences are sufficient that it is believed that Smith, III is non-analogous art and the Examiner has failed to establish a prima facie case of obviousness.

Web applications, as known in the art, are typically hardware independent, and this is a major factor in creating ubiquity and usable internetworking. In typical web servers, an the application resides as a program executing under an operating system, the operating system providing an interface between the application and any necessary hardware. In this way, the software can be distributed for software platforms, independent of the particular hardware configuration. On the other hand, telephony hardware is specialized, and typically not directly supported by operating systems. Therefore, at some level, the application must communicate with the hardware (i.e., the hardware registers or device driver). Thus, telephony applications are either hardware-dependent, or execute in a specified operating environment, such as the OTS™ which is the subject of the present invention. Smith, III does not teach or suggest hardware-dependent software telephony hardware, nor does it address problems inherent in these types of systems, and thus represents to different field of endeavor.

Assuming arguendo that the references could properly be combined, this still does not represent the invention claimed (original or amended). While Smith, III apparently teaches a kind of shopping cart at Col. 10, lines 49-59, it does not initiate a voice or interactive communication based on an automated analysis of the shopping cart as claimed in claim 10.

Likewise, while Smith, III discloses a micropayment scheme, this micropayment is not for a live communication session, and thus does not teach or suggest the invention claimed in claim 13 in a manner which would render the claimed invention obvious.

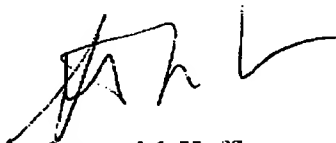
While Smith, III discloses neither the use of Windows operating system (claim 18), and the spawning of a plurality of instances of external programs simultaneously (claim 19). Col. 9, lines 13-28 discloses only the use of Microsoft Windows Explorer (an application program) as a model for a user interface. Likewise, Col. 3, line 59-Col. 4, line 8 describes opening of datasets, not external programs. Smith, III also does not disclose client and server portions of the telephony application program as required by claim 20.

It is noted that the prior art includes Microsoft NetMeeting software and other Internet conferencing software; however, these are also believed distinguished by the presently claimed invention.

It is therefore respectfully submitted that the present application, including claims as amended herein, is patentable in view of the art and should be allowed.

Any additional fees due in connection herewith, or refunds of any overpayments, may be charged to Deposit Account No. 50-0427.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'SMH', is written over the typed name.

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